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In re Application of
Masatomi et al.
Application No.: 10/562,656
PCT No.: PCT/JP04/09403
Int. Filing Date: 25 June 2004
Priority Date: 27 June 2003
Attorney Docket No.: 71,051-026
For: Coating Composition

DECISION

This is in response to the "Request For Refund" filed on 22 July 2008.

DISCUSSION

On 15 August 2007, petitioner filed a petition for relief under 37 CFR 1.137(a) and, "in the alternative," 37 CFR 1.137(b).

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.137(a) was considered and dismissed, without prejudice, and the petition under 37 CFR 1.137(b) was granted.

Petitioner now requests a refund of the petition fee for the petition under 37 CFR 1.137(a), for the reason that the petitions were made "in the alternative." However, petitioner is respectfully advised that the petition filed on 15 August 2007 requested relief under 37 CFR 1.137(a), and that in response to that petition, the issues present in the case were analyzed under 37 CFR 1.137(a). Under the facts present in the application, that analysis led to a dismissal, without prejudice. In response to petitioner's request, the facts were then analyzed under 37 CFR 1.137(b), and the petition under 37 CFR 1.137(b) was granted. Since proper treatment of the petition required analysis under both 37 CFR 1.137(a) and 1.137(b), both petition fees were required. Since payment of both petition fees was appropriate, a refund under these circumstances would not be proper.

DECISION

The refund request is **DISMISSED**, without prejudice.

Any request for reconsideration of this issue must be filed within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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